

# **Security Deposits**

## **Wisconsin Law**

### **What is a security deposit?**

A security deposit is all of the money a tenant pays to a landlord as a guarantee that the tenant will follow the rental agreement (pay the rent, not damage the apartment, etc.). It includes all payments made to the landlord before renting except the first month's rent.

### **How much can my landlord charge for a security deposit?**

There is no limit on the amount of a security deposit under state law. Anything paid to the landlord over one month's rent is considered to be a security deposit.

### **Does my landlord have to pay interest on my deposit?**

No interest is required on security deposits under state law.

### **How do I protect my security deposit?**

The landlord must tell you that you have at least seven days to make a list of damages. If the landlord does not give you a check-in form, write the condition of all items in the apartment on a piece of paper, sign and date it and keep a copy. Under state law, these forms are not required, but it is a good idea for the tenant to use them to document the condition of the apartment at move-in and move-out time.

### **What do I put on my check-in form?**

Everything!! The landlord may charge you for anything wrong with the apartment that is not written on the check-in sheet.

When doing a check-in inspection, be thorough. The landlord cannot charge you for any damages which existed when you moved in and that you note on the check-in form. Note problems such as the following on your form:

- stained carpets
- cracked windows or windows which do not work properly
- nail holes
- cracked or peeling paint
- dirty conditions
- stained walls and ceilings
- dirty fixtures

- dirty appliances (refrigerator, dishwashers and the area underneath them)
- plumbing, sinks, bathtubs and tiles which are worn, dirty, mildewed or do not work properly
- missing light bulbs and other items
- electrical outlets or other items which do not work (stove burners, etc.)

Be picky. Simply noting “ok” may lead the landlord to charge you for “damages”. Note how old items appear to be.

Make a copy of the completed check-in form for yourself. Give the original to your landlord. Also, you may want to take pictures and have witnesses go through the apartment with you and sign the check-in form.

### **What should I do when leaving an apartment?**

It is a good idea to schedule a check-out appointment with your landlord. Together, you should complete a similar form to the check-in sheet. Make sure you give the landlord your forwarding address. Arrange to return the keys. Be clear about any belongings left behind if you cannot get them out on time. You may also want to take pictures of the apartment when you leave.

### **When does my landlord have to return my deposit?**

The landlord has 21 days after you move out to return the security deposit. Under state regulations, landlords must return either the full deposit or a detailed written list of deductions. (You may ask for receipts if not provided.) If the landlord fails to do so, you can sue the landlord for twice the amount of the deposit plus court costs and reasonable attorney fees.

### **What kinds of deductions can a landlord make from my deposit?**

The landlord can normally deduct for the following items:

- unpaid rent
- unpaid utility bills for which the landlord becomes responsible (ex. water bills)
- actual damage caused by the renter or renter’s guests
- unpaid mobile home parking fees

***Unless specifically agreed upon in writing, the landlord cannot deduct late fees from the security deposit.***

Landlords cannot charge you for “normal wear and tear,” which may be considered the aging and wear that occurs when people live in an apartment and take reasonable care of it. For example, over time carpets need to be cleaned and paint may fade or peel.

## **What can I do if the landlord takes money from my deposit unfairly?**

You may write a letter to the landlord. The letter should:

- describe clearly why you disagree with the landlord about the deposit return
- refer to the law(s) that the landlord has violated
- explain that you could sue in small claims court for double damages, court costs and reasonable attorney fees
- give a reasonable deadline for a written response (one week, 10 days, etc.)

Make sure to keep a copy of this letter for your records.

You can also file a complaint against your landlord with the Department of Agriculture, Trade and Consumer Protection (ATCP).

Madison Office - 608-224-4950

Statewide - 1-800-422-7128

If you do not receive a response from the landlord by the deadline given in your letter, you may have to go to small claims court.

Contact Legal Action for proper procedures.

Under state law, a tenant may sue for up to two times the amount of unfair deductions plus court costs and reasonable attorney fees for failure to comply with the following items:

- return of security deposit or written, itemized deductions within 21 days
- improper deductions from the security deposit

Remember, landlords can always file a claim against you if they feel that money is owed to them (unpaid rent, damages, etc.).

Beware, some judges have held that cashing your refund check may be considered accepting the amount sent. You may want to make a copy of the check and return the original check to the landlord, or if you have to cash it, write on the back “not considered full payment”. Also write a letter to the landlord indicating that you cashed the check, but do not agree with the amount given.

### **Disclaimer**

No part of this brochure should be regarded as legal advice or considered a replacement of a landlord’s or tenant’s responsibility to be familiar with the law. If legal assistance is required, the services of a housing attorney should be sought.